IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 603 OF 1998

The Commissioner of Income-tax. ... Applicant.
V/s.
M/s.Engineering Construction
Corpn. Ltd., Bombay. ... Respondent.

A.S.Rao for the Applicant.

B.T.Damodar i/b. Kanga & Co. for respondent.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 29th March, 2005.

P.C. :

. Heard learned counsel for the applicant.

The tribunal has referred following questions for

the opinion of this Court:

1) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee is entitled to deduction for the entire initial contribution to the superannuation fund as against 1/5th of 80% of the initial contribution allowed by the I.T.O. in terms of C.B.D.T. circular No.3433 dated 21.10.1965?

2) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the disallowance out of expenditure incurred on payment of salaries & perquisites to employee-directors should be computed under the provisions of sec.40A(5) of the I.T. Act, 1961 and not under those of sec.40(c) of the Act?

3) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the disallowances under Rule 6D of the I.T.Rules, 1962 should be computed on the basis of aggregate expenditure incurred in the entire year, and not on the basis of

expenditure incurred on each trip separately?

2. The first question has been answered by the Apex Court in the case of **C.I.T. v. Sirpur Paper Mills**, (1999) 237 ITR 41 (SC) in favour of assessee and against the revenue. Question No.1 is, thus, answered in affirmative.

3. The second question has been answered by the Division Bench of this Court in the case of **C.I.T. v. Hico Products (P.) Ltd.**, (1993) 201 ITR 567 (Bom) in favour of assessee and against the revenue.

Question No.2 is, thus, answered in affirmative.

4. The third question has been answered by the Division Bench of this Court in the case of **C.I.T. v. Aorow India Ltd.**, (1998) 229 ITR 325 (Bom) against the assessee and in favour of revenue.

Question No.3 is, thus, answered in negative.

5. Reference stands disposed of accordingly with no order as to costs.

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